

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Bay State Gas Company

D.T.E. 05-27

**THE ATTORNEY GENERAL’S OBJECTION TO INCLUSION OF THE COMPANY’S
2005 STEEL INFRASTRUCTURE REPLACEMENTS AS POST-TEST YEAR PLANT
ADDITIONS**

Pursuant to G. L. c. 30A §§ 11 & 12, the Attorney General of Massachusetts objects to Bay State Gas Company’s (“Bay State” or “Company”) inclusion of its 2005 Steel Infrastructure Replacements (“SIR”) as post-test year plant additions.

The Company’s rate case includes a request for approval of a \$300 million accelerated steel replacement program to replace its corroded steel mains and services. The Company intends to submit, in the form of record request responses (RR-DTE-160 and RR-DTE-161), invoices and sums that represent the Company’s post test year additions to plant in service. Rather than merely supplying the Department of Telecommunications and Energy (“DTE” or “Department”) with information to show the extent of the Company’s construction program during 2005, the Company appears to be poised to persuade the Department to consider performing a prudence review of these costs for inclusion in the cast-off rates in this case.

The Department is well-familiar with its own precedent regarding post-test year additions, and the Company’s 2005 SIR work does not satisfy this precedent. Furthermore, these post test-year additions were not properly noticed to the public since the Company did not include them in its original filing with the incremental rate increase. The Company also did not propose a post-test year addition to rate base associated within its filing, and the Attorney

General does not believe that the Company should be allowed to bootstrap such an adjustment into its cast-off rates through a response to a few record requests, especially at this late date in the proceeding.

The Department appears to be attempting to allow parties some time to investigate the prudence of each and every one of the post-test year additions that the Company has made in a few days, so that they might be included as post-test year additions. This accelerated schedule clearly does not provide the required time and clearly denies the Attorney General's rights and obligations under Chapter 30A to investigate each and every aspect of the Company's rate case.

If the Company wanted these post-test year additions to rate base to be included in the cast-off rates, it should have included them in its original filing so that the parties would have had proper notice and the full, usual, six months to investigate those additions. At this late date, with the first evidence associated with these capital additions coming in after discovery is over, after the parties have any chance to put on witnesses, and after the hearings are over, it is totally unreasonable for the Company and the Department to expect the Attorney General to investigate the hundreds or potentially thousands of bits of information that will come in response to the Department's record requests.

It is clear that the Department and the Attorney General cannot give but a cursory review to what could be millions of dollars in new costs that we have never seen before. Again, we will not have had a chance to do discovery, call our own witnesses or properly cross examine the Company's witnesses.

Two points remain: First, the Department will be setting a dangerous precedent for future rate cases regarding post-test year additions if it allows the Company to submit its 2005 SIR additions as post-test year additions at such a late date -- at the conclusion of five weeks of hearings and the close of discovery. Second, the Department is asking the Attorney General to review the hundreds of 2005 SIR documents during the briefing period, when the Attorney General should be focusing his efforts on writing the briefs.

CONCLUSION

The schedule set to review the 2005 SIR post test year additions is unworkable and patently unfair. If the Company is to receive an extension of time to file post-test year additions, then the Attorney General should, at a minimum, receive a like extension of time in the briefing schedule to accommodate the late document review. Furthermore, the Attorney General should be granted a reasonable time to do discovery and an opportunity to present witnesses regarding the 2005 SIR post test year additions.

Respectfully Submitted,

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